



MASSACHUSETTS DEPARTMENT OF REVENUE SALES AND USE TAX

ADVERTISING CIRCULAR; MAGAZINE EXEMPTION

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FACTS:

Taxpayer Baker distributes a monthly publication in Massachusetts. The publication contains no news stories, features or other articles but is instead comprised exclusively of advertisements promoting the sale of real estate. Each advertisement consists of a picture of the property, a brief description of it, the name of the realtor and the selling price. Each issue has the same name and format, and a volume and number designation.

ISSUE:

Is Baker's publication which is devoted exclusively to advertising exempt as a magazine under G.L. c. 64H, § 6(m)?

DISCUSSION:

Massachusetts exempts the sale of magazines from the sales and use tax. G.L. c. 64H, § 6(m). The word "magazine" is not defined in the statute, and must be construed according to the common and approved usage of the language. G.L. c. 4, § 6 Third; *Commonwealth v. Zone Book, Inc.*, 372 Mass. 366, 369 (1977).

Broadly defined, a magazine is a " 'publication, usually with a paperback, and sometimes illustrated, that appears at regular intervals and contains stories, articles, etc. by various writers and usually advertisements,' " *Stanley Home Products, Inc. v. Commissioner of Revenue*, A.T.B. Docket No. 120842, September 5, 1986, quoting Webster's New World Dictionary (Second College Edition, 1972). Whether a publication is a magazine, however, really depends upon common sense and the ordinary meaning of the word rather than upon whether the publication displays certain incidental characteristics of a magazine, such as regular publication or standardized format. *Robert Welch, Inc. v. State Tax Commission*, A.T.B. Docket No. 79965, October 14, 1977.

According to the common and approved usage of the language, a publication must contain stories, articles or other features in addition to advertising to qualify as a magazine. Thus a publication which consists solely of advertising is not a magazine, but only a sales catalog or circular.

D O R D I R E C T I V E

DIRECTIVE: Baker's publication is not a magazine and is not exempt from sales and use tax under G.L. c. 64H, § 6(m).

REFERENCE: G.L. c. 4, § 6 Third; G.L. c. 64H, § 6(m); *Commonwealth v. Zone Book, Inc.*, 372 Mass. 366 (1977); *Stanley Home Products, Inc. v. Commissioner of Revenue*, A.T.B. Docket No. 120842 (9/5/86); *Robert Welch, Inc. v. State Tax Commission*, A.T.B. Docket No. 79965 (10/14/77).

November 30, 1987



Stephen W. Kidder
Commissioner of Revenue

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This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 C.M.R. § 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.